

# House File 881 - Introduced

HOUSE FILE \_\_\_\_\_  
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 809)  
(SUCCESSOR TO HF 246)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act establishing a tax credit certificate transfer program and  
2 including a retroactive applicability provision.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
4 TLSB 2053HZ 82  
5 tm/gg/14

PAG LIN

1 1 Section 1. NEW SECTION. 15.411 SALE OR TRANSFER OF NET  
1 2 OPERATING LOSS CARRYOVER.  
1 3 1. As used in this section, unless the context otherwise  
1 4 requires:  
1 5 a. "Biotechnology enterprise" means the same as defined in  
1 6 section 15E.202.  
1 7 b. "Net operating loss" means the same as defined in  
1 8 section 172 of the Internal Revenue Code. "Net operating  
1 9 loss" shall not include a maximum salary allocation of more  
1 10 than one hundred thirty percent of the average annual county  
1 11 wage.  
1 12 c. "Targeted industry business" means the same as defined  
1 13 in section 15E.223.  
1 14 2. The department of economic development, in consultation  
1 15 with the department of revenue, shall establish and administer  
1 16 a tax credit certificate transfer program for purposes of  
1 17 allowing a biotechnology enterprise or a targeted industry  
1 18 business located in Iowa with twenty-five or fewer employees  
1 19 to transfer a tax credit certificate to another taxpayer in  
1 20 return for private financial assistance for a net operating  
1 21 loss carryover.  
1 22 3. A biotechnology enterprise or a targeted industry  
1 23 business with twenty-five or fewer employees that has a net  
1 24 operating loss carryover in a single tax year may apply to the  
1 25 department of economic development for the issuance of a tax  
1 26 credit certificate in the amount of the loss carryover for  
1 27 sale under this section to a qualifying, nonaffiliated  
1 28 business. The department shall adopt an application deadline  
1 29 by rule and shall approve or deny all applications within  
1 30 ninety days of the application deadline. Upon the approval by  
1 31 the department of economic development of an application, a  
1 32 tax credit certificate shall be issued by the department of  
1 33 revenue containing the taxpayer's name, address, tax  
1 34 identification number, the amount of the tax credit, and other  
1 35 information required by the department of revenue. The  
2 1 proceeds from the sale of a tax credit shall be used by the  
2 2 biotechnology enterprise or targeted industry business for  
2 3 expenses including but not limited to the expenses of fixed  
2 4 assets such as the acquisition, development, and construction  
2 5 of real property, materials, salaries, and research and  
2 6 development expenditures.  
2 7 4. A taxpayer willing to enter into an agreement to  
2 8 receive a tax credit certificate from a biotechnology  
2 9 enterprise or a targeted industry business in exchange for  
2 10 providing private financial assistance shall submit an  
2 11 application to the department. The application to receive a  
2 12 tax credit certificate shall identify the amount of private  
2 13 financial assistance that the applicant is willing to provide  
2 14 in exchange for a tax credit certificate.  
2 15 5. For any tax year beginning on or after January 1, 2007,  
2 16 a taxpayer willing to provide private financial assistance to  
2 17 a biotechnology enterprise or targeted industry business in

2 18 exchange for a tax credit certificate may use the amount of  
2 19 the tax credit transferred against the taxes imposed under  
2 20 chapter 422, division II, III, or V, or chapter 432 for any  
2 21 tax year the original transferor could have claimed the net  
2 22 operating loss carryover. Any consideration received for the  
2 23 transfer of the tax credit shall not be included as income  
2 24 under chapter 422, division II, III, or V. Any consideration  
2 25 paid for the transfer of a tax credit under this section shall  
2 26 not be deducted from income under chapter 422, division II,  
2 27 III, or V. Any tax credit in excess of the tax liability for  
2 28 the tax year may be credited to the tax liability for the  
2 29 following seven years or until depleted, whichever occurs  
2 30 first.

2 31 6. The department of economic development, in consultation  
2 32 with the department of revenue, shall adopt rules pursuant to  
2 33 chapter 17A to establish the procedures for the application,  
2 34 review, selection, issuance, and transfer of tax credit  
2 35 certificates and to provide for the method to be used to  
3 1 determine for which fiscal year the tax credits are available.

3 2 7. The department or a designee shall match applications  
3 3 submitted under this section in a manner that can best  
3 4 stimulate and encourage the extension of private financial  
3 5 assistance to biotechnology enterprises or targeted industry  
3 6 businesses in the state. As part of approving an application,  
3 7 the department shall require all of the following from  
3 8 applicants:

3 9 a. A written agreement concerning the terms and conditions  
3 10 of providing private financial assistance in exchange for a  
3 11 tax credit certificate issued pursuant to this section.

3 12 b. Private financial assistance supplied by a taxpayer  
3 13 must be equal to at least seventy-five percent of the value of  
3 14 the tax credit certificate issued pursuant to this section.

3 15 c. Private financial assistance received under this  
3 16 section shall be used for the operation or expansion of a  
3 17 biotechnology enterprise or a targeted industry business.

3 18 8. For the fiscal year beginning July 1, 2007, and each  
3 19 fiscal year thereafter, the total amount of tax credits that  
3 20 may be approved for a fiscal year under this section shall not  
3 21 exceed two million dollars. A biotechnology enterprise or a  
3 22 targeted industry business shall not receive more than two  
3 23 hundred thousand dollars in any fiscal year of private  
3 24 financial assistance under the program as a first-time award.  
3 25 A biotechnology enterprise or a targeted industry business may  
3 26 receive financial assistance under the program in subsequent  
3 27 fiscal years. A biotechnology enterprise or a targeted  
3 28 industry business shall not receive more than one hundred  
3 29 fifty thousand dollars in a fiscal year as a second award of  
3 30 financial assistance under the program. A biotechnology  
3 31 enterprise or a targeted industry business shall not receive  
3 32 more than one hundred thousand dollars in a fiscal year as a  
3 33 third and final award of financial assistance under the  
3 34 program. A biotechnology enterprise or a targeted industry  
3 35 business shall not receive financial assistance under the  
4 1 program in more than three fiscal years. Tax credits issued  
4 2 under this section shall not be prorated.

4 3 9. A biotechnology enterprise or a targeted industry  
4 4 business receiving private financial assistance under the  
4 5 program shall not receive a wage=benefits tax credit under  
4 6 section 15I.2.

4 7 Sec. 2. NEW SECTION. 422.11T BIOTECHNOLOGY ENTERPRISE OR  
4 8 TARGETED INDUSTRY BUSINESS NET OPERATING LOSS TRANSFER TAX  
4 9 CREDIT.

4 10 The taxes imposed under this division, less the credits  
4 11 allowed under sections 422.12 and 422.12B, shall be reduced by  
4 12 a biotechnology enterprise or targeted industry business net  
4 13 operating loss transfer tax credit authorized pursuant to  
4 14 section 15.411.

4 15 Sec. 3. Section 422.33, Code 2007, is amended by adding  
4 16 the following new subsection:

4 17 NEW SUBSECTION. 24. The taxes imposed under this division  
4 18 shall be reduced by a biotechnology enterprise or targeted  
4 19 industry business net operating loss transfer tax credit  
4 20 authorized pursuant to section 15.411.

4 21 Sec. 4. Section 422.60, Code 2007, is amended by adding  
4 22 the following new subsection:

4 23 NEW SUBSECTION. 13. The taxes imposed under this division  
4 24 shall be reduced by a biotechnology enterprise or targeted  
4 25 industry business net operating loss transfer tax credit  
4 26 authorized pursuant to section 15.411.

4 27 Sec. 5. NEW SECTION. 432.12J BIOTECHNOLOGY ENTERPRISE OR  
4 28 TARGETED INDUSTRY BUSINESS NET OPERATING LOSS TRANSFER TAX

4 29 CREDIT.

4 30 The tax imposed under this chapter shall be reduced by a  
4 31 biotechnology enterprise or targeted industry business net  
4 32 operating loss transfer tax credit authorized pursuant to  
4 33 section 15.411.

4 34 Sec. 6. Section 533.24, Code 2007, is amended by adding  
4 35 the following new subsection:

5 1 NEW SUBSECTION. 11. The moneys and credits tax credit  
5 2 imposed under this section shall be reduced by a biotechnology  
5 3 enterprise or targeted industry business net operating loss  
5 4 transfer tax credit authorized pursuant to section 15.411.

5 5 Sec. 7. RETROACTIVE APPLICABILITY. This Act is  
5 6 retroactively applicable to January 1, 2007, and is applicable  
5 7 on and after that date.

5 8 EXPLANATION

5 9 This bill establishes a tax credit certificate transfer  
5 10 program.

5 11 The bill requires the department of economic development,  
5 12 in consultation with the department of revenue, to establish  
5 13 and administer a tax credit certificate transfer program for  
5 14 purposes of allowing a biotechnology enterprise or a targeted  
5 15 industry business located in Iowa with 25 or fewer employees  
5 16 to transfer a tax credit certificate to another taxpayer in  
5 17 return for private financial assistance for a net operating  
5 18 loss carryover.

5 19 The bill allows a biotechnology enterprise or a targeted  
5 20 industry business with 25 or fewer employees that has a net  
5 21 operating loss carryover in a single tax year to apply to the  
5 22 department of economic development for the issuance of a tax  
5 23 credit certificate in the amount of the loss carryover for  
5 24 sale under the bill to a qualifying, nonaffiliated business.  
5 25 The bill provides that private financial assistance is to be  
5 26 used for expenses including but not limited to the expenses of  
5 27 fixed assets such as the acquisition, development, and  
5 28 construction of real property, materials, salaries, and  
5 29 research and development expenditures.

5 30 The bill requires that a taxpayer willing to provide  
5 31 private financial assistance shall submit an application to  
5 32 the department identifying the amount of private financial  
5 33 assistance that the applicant is willing to provide.

5 34 The bill provides that, for any tax year beginning on or  
5 35 after January 1, 2007, tax credits transferred under the  
6 1 program may be used against personal and corporate income  
6 2 taxes, against the franchise tax for financial institutions,  
6 3 against the insurance premium tax, and against the moneys and  
6 4 credit for credit unions. The bill provides that any  
6 5 consideration received for the transfer of a tax credit shall  
6 6 not be considered income and any consideration paid for the  
6 7 transfer shall not be deducted from income. The bill allows  
6 8 any tax credit in excess of the tax liability for the tax year  
6 9 to be credited to the tax liability for the following seven  
6 10 years or until depleted, whichever occurs first.

6 11 The bill requires the department to match applications  
6 12 submitted under the program in a manner that can best  
6 13 stimulate and encourage the extension of private financial  
6 14 assistance in the state.

6 15 The bill provides that the total amount of tax credits that  
6 16 may be approved for transfer under the program for the fiscal  
6 17 year 2007=2008, and every fiscal year thereafter, shall not  
6 18 exceed \$2 million. The bill provides that a biotechnology  
6 19 enterprise or a targeted industry business shall not receive  
6 20 more than \$200,000 in financial assistance as a first=time  
6 21 award under the program. The bill provides that a  
6 22 biotechnology enterprise or a targeted industry business shall  
6 23 not receive more than \$150,000 in a fiscal year as a  
6 24 second=time award of financial assistance under the program.  
6 25 The bill provides that a biotechnology enterprise or a  
6 26 targeted industry business shall not receive more than  
6 27 \$100,000 in a fiscal year as a third=time and final award of  
6 28 financial assistance under the program. The bill prohibits a  
6 29 biotechnology enterprise or a targeted industry business from  
6 30 receiving financial assistance under the program in more than  
6 31 three fiscal years.

6 32 The bill prohibits a biotechnology enterprise or a targeted  
6 33 industry business that receives private financial assistance  
6 34 under the program from receiving a wage=benefits tax credit  
6 35 under Code section 15I.2.

7 1 The bill is retroactively applicable to January 1, 2007.

7 2 LSB 2053HZ 82

7 3 tm:rj/gg/14